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APPLICATION NO. 097114,015	FILING DATE 07/10/98	FIRST NAMED INVENTOR JOHANSEN	ATTORNEY DOCKET NO. 163.1247US01
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Q002/1027  
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EXAMINER GRAVINI, S	
ART UNIT 3744	PAPER NUMBER

DATE MAILED: 10/27/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/114,015

Applicant(s)  
Scott A. JOHANSEN et al.

Examiner  
Steve Gravini

Group Art Unit  
3744



☒ Responsive to communication(s) filed on Oct 13, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) 1-10 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 11-18 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-10, drawn to a drying method, classified in class 34, subclass 381.
  - II. Claims 11-18, drawn to a drying apparatus, classified in class 34, subclass 62.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions of group I and group II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the independently claimed method of energizing a flow of water from a water spray within a housing to create a zone of reduced pressure in the housing in fluid communication between the machine interior and the housing along with the feature of the reduced pressure introducing fresh atmosphere into the machine while removing the heated atmosphere is not found in the independently claimed apparatus. The independently claimed apparatus recites at least one inlet, at least one conduit, a water jet, the spray nozzle, a machine enclosure, and a housing. These recitations patentably distinguish the independently claimed method from the independently claimed apparatus, since they are not recited in the independently claimed method. Thus, the process as claimed can be practiced by another materially different apparatus or by hand because

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the independently claimed method can be practiced with components other than those recited in the independently claimed apparatus.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

*Response to Arguments*

4. Applicant's election with traverse of claims 11-18 in Paper No. 7 is acknowledged. The traversal is on the grounds that both independent sets of claims recite a water jet that forms a zone of reduced pressure that removes heated steam/atmosphere from the interior of the machine and that this commonality demonstrates the unity of invention of both sets of claims. This is not found persuasive because as stated in the restriction requirement of paper # 6 mailed September 20, 1999 and repeated above, the process as claimed can be practiced by another materially different apparatus or by hand because the independently claimed method can be practiced with components other than those recited in the independently claimed apparatus. These components include at least one inlet, at least one conduit, a water jet, the spray nozzle, a machine enclosure, and a housing which are not recited in the independently claimed method. Please see MPEP § 806.05(e).

The requirement is still deemed proper and is therefore made FINAL.

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*Claim Rejections - 35 U.S.C. § 112*

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 11-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites "the housing," "the spray nozzle," "the hot humid atmosphere," and "the inlet" which fail to particularly point out and distinctly claim the subject matter which applicant regards as the invention because each recitation lacks a positive antecedent basis.

*Allowable Subject Matter*

7. Claims 11-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Gravini whose telephone number is (703) 308-7570 and electronic transmission / e-mail address is "steve.gravini@uspto.gov". **If applicants chose to send information by e-mail, please be aware that confidentiality of the electronically transmitted message cannot be assured.** Information may also be sent to the examiner by facsimile machine at (703) 308-7764. Please see MPEP § 502.02.

*Steve Gravini*  
**STEPHEN M. GRAVINI**  
**PRIMARY EXAMINER**

smg  
October 27, 1999.